

APPROVED SEPTEMBER 29, 2004



**MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
September 1, 2004**

PRESENT: David Gulino, Chairman
Steve Steinberg, Vice Chairman
David Barnett, Commissioner
James Heitel, Commissioner
Eric Hess, Commissioner
Jeffrey Schwartz, Commissioner
Steven Steinke, Commissioner

STAFF: Pat Boomsma
Tim Curtis
Kurt Jones
Phil Kercher
Bill Verschuren
Al Ward

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:04 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

MINUTES APPROVAL

August 18, 2004

**COMMISSIONER HEITEL MOVED TO APPROVE THE AUGUST 18, 2004
MINUTES AS PRESENTED. SECOND BY COMMISSIONER BARNETT.**

APPROVED

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

CHAIRMAN GULINO advised that case 11-AB-2004 and case 11-UP-2004 would be pulled from the expedited agenda and placed on the regular agenda.

CONTINUANCES

7-UP-2004 (Sonrise Community Church) request by Dale Miller Architects, applicant, Sonrise Community Church, owner, for a conditional use permit for a private/charter school on a 9.2 acre +/- acre parcel located at 29505 N Scottsdale Road with Single Family Residential, Environmentally Sensitive Lands District, Foothills Overlay (R1-70 ESL FO).

24-UP-2004 (City of Scottsdale Arsenic Treatment Facility Site 115) request to initiate a conditional use permit for a municipal use master site plan for an arsenic treatment facility.

COMMISSIONER HEITEL MOVED TO CONTINUE CASES 7-UP-2004 AND 24-UP-2004 TO THE SEPTEMBER 29, 2004 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER SCHWARTZ.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

12-AB-2004 (NC Properties) request by NC Gold Dust Main LLC, applicant/owner, to abandon all or part of the 33 feet General Land Office easements on the perimeter of the parcel located at 12653 E Cochise Drive.

14-AB-2004 (Turquoise & 108th Street) request by Integrity Luxury Homes, applicant/owner, to abandon the 10 feet public right of way on the west side of property along 108th Street located at 10820 E Turquoise Avenue.

17-UP-2003 (Duke's Bar & Grill), request by Beus Gilbert PLLC, applicant, Community Centers of America Plaza Del Rio LLC, owner for a conditional use permit for expansion of an existing pool hall use within the existing structure which is on a 3 +/- acre parcel located at 7607 E McDowell Road with Highway Commercial District (C-3) zoning.

20-UP-2004 (Duke's Bar & Grill) request by Phoenix Development Advisors Inc, applicant, Community Centers of America Plaza Del Rio LLC, owner for a conditional use permit for a bar within the existing structure which is on a 3 +/- acre parcel located at 7607 E McDowell Road with Highway Commercial District (C-3) zoning.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY)

MARIO CAVOLO, 7607 E. McDowell Road, addressed the Commission and stated that he was the owner of Peter Piper Pizza, located in the strip mall area under discussion. He voiced his opposition to the application, as it would negatively impact not only his business, but others in the area as well. He went on to point out the numbers submitted under the Parking Ordinance do not relate to anything in existence and that the parking study submitted with the plan was unrealistic. He referred to the potential increased parking demands in south Scottsdale as a result of the planned ASU development, Senior Center and related apartment complex.

MR. CAVOLO also referred to the already shortage of parking spaces for those customers parking for take-out service.

COMMISSIONER STEINKE referred to the graphic of the parking area and observed that there appeared to be adequate parking for the Denny's, Peter Piper, Duke's and the House of Fitness, especially when the remaining businesses in the area were closed.

COMMISSIONER SCHWARTZ commented that it might be worth Mr. Cavello's time to discuss the parking issues with the landlord and perhaps reach a compromise to accommodate the needs of take-out patrons.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY)

COMMISSIONER BARNETT MOVED TO APPROVE CASES 12-AB-2004, 14-AB-2004, 17-UP-2003 AND 20-UP-2004. COMMISSIONER HEITEL SECONDED THE MOTION.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

11-AB-2004 (69th St. Abandonment) request by Earl, Curley & Lagarde PC, applicant, Dave & Linda Burns, owner, to abandon a portion of the right-of-way on 69th Street between Wildcat Drive and Lowden Road and General Land Office patent easements on 69th Street, on the south side of Wildcat Drive and north side of Lowden Road.

MR. JONES presented this case per the project coordination packet. Staff recommends approval. He responded to questions from the Commissioners. There was discussion relative to a similar case heard by City Council on August 31, 2004, in which the application for GLO easement abandonment was granted.

Commissioner Heitel referred to the failure of the city to dedicate planned trails, with subsequent development occurring, and thus the links and connectivity in the trail systems are not maintained. He noted that this was an important issue for the future of the Trails System.

LYNN LAGARDE, 3101 North Central, Phoenix, AZ, addressed the Commission representing the applicant. She stated that the applicant's request was rather straightforward in that the natural topography with a major wash dictates that there is no need for the street in question. She added that they were simply asking to abandon an unneeded right-of-way and unneeded GLO easement. Ms. Lagarde went on to explain that the applicant was dedicating an additional five feet of public right-of-way on the south side of Wildcat, and in compliance with the trails and master plan. She also noted that a 1000-foot notice had been sent, with no objections.

MS. LAGARDE discussed several of concerns at issues regarding the maintenance of the trail on the applicant's property. They include privacy and security issues. She also noted that the trail is not shown on any city map. Ms. Lagarde concluded by noting that the area is well served by local trails and with the dedication of the extra five feet by the applicant, connectivity is thus maintained.

COMMISSIONER HEITEL commented that Ms. Lagarde had made a good case for abandoning the trail system within the entire city. He asked whether the applicant had purchased the property with the easement in place. Ms. Lagarde replied that the easement did not appear on the title report and that the applicant had become aware of its existence only when asking for the abandonment of 69th Street.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY)

TONY NELSEN, 7736 E. Redbird Road, stated that he had no objection to the road abandonment, but stressed the need for the easement to remain. He disputed that security issues were a result of the trail proximity. Mr. Nelsen stated that the Desert Foothills area is under plan and that it is important to fulfill the vision of the longtime residents who have worked so hard on the overlay. He added that the area is zoned rural and equestrian and should be preserved as such.

HOWARD MYERS, 6631 E. Horned Owl Trail, representing Desert Property Owners Association, noted that community benefit that should be considered in getting an adequate trail system in place. He observed the importance of maintaining the maximum right-of-way as a buffer between the trail and the road, and that it was critical to maintain the connectivity. He added that federal law states that the public has the right of access to the GLO patent easements. Mr.

Myers referred to the area as a sensitive area that must be maintained. He asked that the Commission respect that by refusing to give away right-of-way and connectivity before the trail system is completed.

MS. LAGARDE replied that the private rights of the residents in the GLO easements could not be enforced for the benefit of the Desert Foothills community. She stated that it was not appropriate for the city to ask private citizens to give up their property and undertake the burden of maintaining the trail. She expressed support of the trails system, but not in people's backyards.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY)

COMMISSIONER HEITEL stated that the connectivity issues are very important to the individuals who have gone to a lot of work in the Desert Foothills area, and utilizing the character area designation created in years past by the city. He noted that the Planning Commission is obligated to consider future planning issues, such as the trails and connectivity.

CHAIRMAN GULINO referred to a case heard by the Commission in July, noting similarities. Mr. Jones reviewed that case. Chairman Gulino expressed support for the Trails Master Plan and its implementation; however, he stated that he could not support dedication of a trail on the subject alignment. He commented that his main concern was a tendency to overstep the stated limits of the Trails Master Plan. He stated that he felt it was not fair to go beyond the Master Plan when there was resistance from the property owner.

COMMISSIONER SCHWARTZ MOVED TO APPROVE CASE 11-AB-2004 FOR APPROVAL. SECOND BY COMMISSIONER STEINKE. THE MOTION PASSED BY A VOTE OF FOUR (4) TO THREE (3), WITH COMMISSIONERS BARNETT, HESS, AND HEITEL DISSENTING.

11-UP-2004 (Sunrise Senior Assisted Living) request by Earl Curley & Lagarde PC, applicant, Herberger Foundation, owner for a conditional use permit for a minimal residential health care facility on a 2.17 +/- acre parcel located at 7370 E Gold Dust Avenue with Central Business District (C-2) zoning.

CHAIRMAN GULINO stated that Commissioner Schwartz has declared a conflict and would be excusing himself from discussion and action on this item.

TIM CURTIS presented this case per the project coordination packet. Staff recommends approval.

COMMISSIONER BARNETT inquired as to parking in the event the facility was converted to apartment use.

MR. CURTIS replied that depended on the size of the project, but normally one to two parking spaces per unit, per the zoning ordinance. Discussion ensued as to the possibility of a subsequent use of the property and how parking would be accommodated. Mr. Curtis clarified that the property could not easily be converted to an apartment complex; that rezoning would be required.

COMMISSIONER STEINBERG expressed concern as to the blind curve in proximity to the major access point into the site.

PHIL KERCHER, Transportation Department, explained that a deceleration lane had been specified into the first driveway, and that the applicant's traffic engineer had completed a thorough analysis, and showed that they could achieve sight distance for the driveways. He noted that it would impact landscaping along the front of the property. In reply to further inquiry by Commissioner Steinberg, Mr. Kercher explained that other options had been explored for ingress to the site, but none of them had proven viable. He clarified that when the applicant presents the final plan review, the applicant will be required to show calculations for sight distance easement and driveways across the front of the property. He explained that if the plans were unsatisfactory at that time, additional modifications would have to be made.

COMMISSIONER BARNETT commented that he understood this request to be a conditional use permit, and that questions relative to ingress and ingress would be handled by the DRB. Mr. Jones replied that the request was site specific, but if minor driveway modifications had to be made, those could be addressed by DRB. There was additional discussion about potential future use and parking ramifications.

MS. LAGARDE explained that the units are specialized with one bedroom and bath and no kitchen. She stated that the units could not be characterized as a dwelling unit or an apartment. She added that the applicant, Sunrise, hopes to be a big part of the community, noting that they have been in business in Scottsdale for over two years, having acquired Brighton Gardens. She commented on the great demand for this type of housing, and the fact that Sunrise has been providing this type of housing for over twenty years. Ms. Lagarde observed that it would be highly unlikely that this project would convert to anything other than the proposed project as described. She went on to assure the Commission that the applicant has gone to great lengths to ensure the safety of the access area.

COMMISSIONER STEINKE requested that the project drawings include an update with the deceleration lane depicted.

COMMISSIONER BARNETT MOVED TO APPROVE CASE 11-UP-2004 AS PRESENTED. COMMISSIONER HESS SECONDED THE MOTION.

**THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0), WITH
COMMISSIONER SCHWARTZ ABSTAINING.**

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 6:18 p.m.

Respectfully Submitted,

"For the Record " Court Reporters

APPROVED